

Part 1

Division of Substance Abuse and Mental Health

62A-15-101 Title.

- (1) This chapter is known as the "Substance Abuse and Mental Health Act."
- (2) This part is known as the "Division of Substance Abuse and Mental Health."

Amended by Chapter 75, 2009 General Session

62A-15-102 Definitions.

As used in this chapter:

- (1) "Criminal risk factors" means a person's characteristics and behaviors that:
 - (a) affect the person's risk of engaging in criminal behavior; and
 - (b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in reduced risk of criminal behavior.
- (2) "Director" means the director of the Division of Substance Abuse and Mental Health.
- (3) "Division" means the Division of Substance Abuse and Mental Health established in Section 62A-15-103.
- (4) "Local mental health authority" means a county legislative body.
- (5) "Local substance abuse authority" means a county legislative body.
- (6)
 - (a) "Public funds" means federal money received from the Department of Human Services or the Department of Health, and state money appropriated by the Legislature to the Department of Human Services, the Department of Health, a county governing body, or a local substance abuse authority, or a local mental health authority for the purposes of providing substance abuse or mental health programs or services.
 - (b) "Public funds" include federal and state money that has been transferred by a local substance abuse authority or a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority. The money maintains the nature of "public funds" while in the possession of the private entity that has an annual or otherwise ongoing contract with a local substance abuse authority or a local mental health authority to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority.
 - (c) Public funds received for the provision of services pursuant to substance abuse or mental health service plans may not be used for any other purpose except those authorized in the contract between the local mental health or substance abuse authority and provider for the provision of plan services.
- (7) "Severe mental disorder" means schizophrenia, major depression, bipolar disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by the division.

Amended by Chapter 412, 2015 General Session

62A-15-103 Division -- Creation -- Responsibilities.

- (1) There is created the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director. The division is the substance abuse authority and the mental health authority for this state.

(2) The division shall:

(a)

- (i) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;
- (ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;
- (iii) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;
- (iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by identifying and disseminating information about effective practices and programs;
- (v) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public and private programs, minimum standards for public and private providers of substance abuse and mental health programs licensed by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities;
- (vi) promote integrated programs that address an individual's substance abuse, mental health, physical health, and criminal risk factors;
- (vii) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance abuse and mental illness that addresses criminal risk factors;
- (viii) evaluate the effectiveness of programs described in Subsection (2);
- (ix) consider the impact of the programs described in Subsection (2) on:
 - (A) emergency department utilization;
 - (B) jail and prison populations;
 - (C) the homeless population; and
 - (D) the child welfare system; and
- (x) promote or establish programs for education and certification of instructors to educate persons convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b)

- (i) collect and disseminate information pertaining to mental health;
- (ii) provide direction over the state hospital including approval of its budget, administrative policy, and coordination of services with local service plans;
- (iii) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and
- (iv) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that all individuals receiving services through local mental health authorities or the Utah State Hospital be informed about and, if desired, provided assistance in completion of a declaration for mental health treatment in accordance with Section 62A-15-1002;

(c)

- (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;
- (ii) provide consultation and other assistance to public and private agencies and groups working on substance abuse and mental health issues;

- (iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;
- (iv) promote or conduct research on substance abuse and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;
- (v) receive, distribute, and provide direction over public funds for substance abuse and mental health services;
- (vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;
- (vii) examine expenditures of any local, state, and federal funds;
- (viii) monitor the expenditure of public funds by:
 - (A) local substance abuse authorities;
 - (B) local mental health authorities; and
 - (C) in counties where they exist, the private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authorities;
- (ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;
- (x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;
- (xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:
 - (A) a statewide comprehensive continuum of substance abuse services;
 - (B) a statewide comprehensive continuum of mental health services;
 - (C) services result in improved overall health and functioning;
 - (D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;
 - (E) compliance, where appropriate, with the certification requirements in Subsection (2)(i); and
 - (F) appropriate expenditure of public funds;
- (xii) review and make recommendations regarding each local substance abuse authority's contract with its provider of substance abuse programs and services and each local mental health authority's contract with its provider of mental health programs and services to ensure compliance with state and federal law and policy;
- (xiii) monitor and ensure compliance with division rules and contract requirements; and
- (xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;
- (d) assure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;
- (e) require each local substance abuse authority and each local mental health authority to submit its plan to the division by May 1 of each year;
- (f) conduct an annual program audit and review of each local substance abuse authority in the state and its contract provider and each local mental health authority in the state and its contract provider, including:

- (i) a review and determination regarding whether:
 - (A) public funds allocated to local substance abuse authorities and local mental health authorities are consistent with services rendered and outcomes reported by them or their contract providers; and
 - (B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance abuse and mental health programs and services; and
- (ii) items determined by the division to be necessary and appropriate; and
- (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;
- (h) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance abuse and mental health treatment to individuals who are required to participate in treatment by the court or the Board of Pardons and Parole, or who are incarcerated, including:
 - (i) collaboration with the Department of Corrections, the Utah Substance Abuse Advisory Council to develop and coordinate the standards, including standards for county and state programs serving individuals convicted of class A and class B misdemeanors;
 - (ii) determining that the standards ensure available treatment includes the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and
 - (iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)(h) in order to receive public funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;
- (i) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the certification of licensed public and private providers who provide, as part of their practice, substance abuse and mental health treatment to individuals involved in the criminal justice system, including:
 - (i) collaboration with the Department of Corrections, the Utah Substance Abuse Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;
 - (ii) basing the certification process on the standards developed under Subsection (2)(h) for the treatment of individuals involved in the criminal justice system; and
 - (iii) the requirement that all public and private providers of treatment to individuals involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice on or after July 1, 2016;
- (j) collaborate with the Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:
 - (i) pretrial services and the resources needed for the reduced recidivism efforts;
 - (ii) county jail and county behavioral health early-assessment resources needed for offenders convicted of a class A or class B misdemeanor; and
 - (iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;
- (k)
 - (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(h), including recidivism

- data and data regarding cost savings associated with recidivism reduction and the reduction in the number of inmates, that are obtained in collaboration with the Administrative Office of the Courts and the Department of Corrections; and
 - (ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;
 - (l) in its discretion, use the data to make decisions regarding the use of funds allocated to the division, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)(h); and
 - (m) annually, on or before August 31, submit the data collected under Subsection (2)(j) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings based on the data and provide the report to the legislative Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees.
- (3)
- (a) The division may refuse to contract with and may pursue its legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.
 - (b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract with its provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy.
- (4) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with its oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.
- (5) In carrying out its duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.
- (6) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.
- (7) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:
- (a) the use of public funds;
 - (b) oversight responsibilities regarding public funds; and
 - (c) governance of substance abuse and mental health programs and services.
- (8) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.
- (9) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:
- (a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or
 - (b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

Amended by Chapter 113, 2016 General Session
Amended by Chapter 211, 2016 General Session

62A-15-104 Director -- Qualifications.

- (1) The director of the division shall be appointed by the executive director.
- (2) The director shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in matters concerning substance abuse and mental health.
- (3) The director is the administrative head of the division.

Amended by Chapter 75, 2009 General Session

62A-15-105 Authority and responsibilities of division.

The division shall set policy for its operation and for programs funded with state and federal money under Sections 17-43-201, 17-43-301, 17-43-304, and 62A-15-110. The division shall:

- (1) in establishing rules, seek input from local substance abuse authorities, local mental health authorities, consumers, providers, advocates, division staff, and other interested parties as determined by the division;
- (2) establish, by rule, minimum standards for local substance abuse authorities and local mental health authorities;
- (3) establish, by rule, procedures for developing policies that ensure that local substance abuse authorities and local mental health authorities are given opportunity to comment and provide input on any new policy of the division or proposed changes in existing rules of the division;
- (4) provide a mechanism for review of its existing policy, and for consideration of policy changes that are proposed by local substance abuse authorities or local mental health authorities;
- (5) develop program policies, standards, rules, and fee schedules for the division; and
- (6) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules approving the form and content of substance abuse treatment, educational series, screening, and assessment that are described in Section 41-6a-501.

Amended by Chapter 75, 2009 General Session

62A-15-105.2 Employment first emphasis on the provision of services.

- (1) As used in this section, "recipient" means an individual who is:
 - (a) undergoing treatment for a substance abuse problem; or
 - (b) suffers from a mental illness.
- (2) When providing services to a recipient, the division shall, within funds appropriated by the Legislature and in accordance with the requirements of federal and state law and memorandums of understanding between the division and other state entities that provide services to a recipient, give priority to providing services that assist an eligible recipient in obtaining and retaining meaningful and gainful employment that enables the recipient to earn sufficient income to:
 - (a) purchase goods and services;
 - (b) establish self-sufficiency; and
 - (c) exercise economic control of the recipient's life.
- (3) The division shall develop a written plan to implement the policy described in Subsection (2) that includes:

- (a) assessing the strengths and needs of a recipient;
 - (b) customizing strength-based approaches to obtaining employment;
 - (c) expecting, encouraging, providing, and rewarding:
 - (i) integrated employment in the workplace at competitive wages and benefits; and
 - (ii) self-employment;
 - (d) developing partnerships with potential employers;
 - (e) maximizing appropriate employment training opportunities;
 - (f) coordinating services with other government agencies and community resources;
 - (g) to the extent possible, eliminating practices and policies that interfere with the policy described in Subsection (2); and
 - (h) arranging sub-minimum wage work or volunteer work for an eligible recipient when employment at market rates cannot be obtained.
- (4) The division shall, on an annual basis:
- (a) set goals to implement the policy described in Subsection (2) and the plan described in Subsection (3);
 - (b) determine whether the goals for the previous year have been met; and
 - (c) modify the plan described in Subsection (3) as needed.

Enacted by Chapter 305, 2012 General Session

62A-15-107 Authority to assess fees.

The division may, with the approval of the Legislature and the executive director, establish fee schedules and assess fees for services rendered by the division.

Amended by Chapter 75, 2009 General Session

62A-15-108 Formula for allocation of funds to local substance abuse authorities and local mental health authorities.

- (1) The division shall establish, by rule, formulas for allocating funds to local substance abuse authorities and local mental health authorities through contracts, to provide substance abuse prevention and treatment services in accordance with the provisions of this chapter and Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, and mental health services in accordance with the provisions of this chapter and Title 17, Chapter 43, Part 3, Local Mental Health Authorities. The formulas shall provide for allocation of funds based on need. Determination of need shall be based on population unless the division establishes, by valid and accepted data, that other defined factors are relevant and reliable indicators of need. The formulas shall include a differential to compensate for additional costs of providing services in rural areas.
- (2) The formulas established under Subsection (1) apply to all state and federal funds appropriated by the Legislature to the division for local substance abuse authorities and local mental health authorities, but does not apply to:
 - (a) funds that local substance abuse authorities and local mental health authorities receive from sources other than the division;
 - (b) funds that local substance abuse authorities and local mental health authorities receive from the division to operate specific programs within their jurisdictions which are available to all residents of the state;
 - (c) funds that local substance abuse authorities and local mental health authorities receive from the division to meet needs that exist only within their local areas; and

- (d) funds that local substance abuse authorities and local mental health authorities receive from the division for research projects.

Amended by Chapter 75, 2009 General Session

62A-15-110 Contracts for substance abuse and mental health services -- Provisions -- Responsibilities.

- (1) If the division contracts with a local substance abuse authority or a local mental health authority to provide substance abuse or mental health programs and services in accordance with the provisions of this chapter and Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, or Title 17, Chapter 43, Part 3, Local Mental Health Authorities, it shall ensure that those contracts include at least the following provisions:
 - (a) that an independent auditor shall conduct any audit of the local substance abuse authority or its contract provider's programs or services and any audit of the local mental health authority or its contract provider's programs or services, pursuant to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;
 - (b) in addition to the requirements described in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, the division:
 - (i) shall prescribe guidelines and procedures, in accordance with those formulated by the state auditor pursuant to Section 67-3-1, for auditing the compensation and expenses of officers, directors, and specified employees of the private contract provider, to assure the state that no personal benefit is gained from travel or other expenses; and
 - (ii) may prescribe specific items to be addressed by that audit, depending upon the particular needs or concerns relating to the local substance abuse authority, local mental health authority, or contract provider at issue;
 - (c) the local substance abuse authority or its contract provider and the local mental health authority and its contract provider shall invite and include all funding partners in its auditor's pre- and exit conferences;
 - (d) each member of the local substance abuse authority and each member of the local mental health authority shall annually certify that he has received and reviewed the independent audit and has participated in a formal interview with the provider's executive officers;
 - (e) requested information and outcome data will be provided to the division in the manner and within the time lines defined by the division; and
 - (f) all audit reports by state or county persons or entities concerning the local substance abuse authority or its contract provider, or the local mental health authority or its contract provider shall be provided to the executive director of the department, the local substance abuse authority or local mental health authority, and members of the contract provider's governing board.
- (2) Each contract between the division and a local substance abuse authority or a local mental health authority shall authorize the division to withhold funds, otherwise allocated under Section 62A-15-108, to cover the costs of audits, attorney fees, and other expenditures associated with reviewing the expenditure of public funds by a local substance abuse authority or its contract provider or a local mental health authority or its contract provider, if there has been an audit finding or judicial determination that public funds have been misused by the local substance abuse authority or its contract provider or the local mental health authority or its contract provider.

Amended by Chapter 71, 2005 General Session